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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,923	05/09/2006	Tomokazu Muraguchi	10517/330	3859
23838	7590	02/20/2008		
KENYON & KENYON LLP			EXAMINER	
1500 K STREET N.W.			EDWARDS, LOREN C	
SUITE 700				
WASHINGTON, DC 20005			ART UNIT	PAPER NUMBER
			3748	
			MAIL DATE	DELIVERY MODE
			02/20/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/578,923	MURAGUCHI ET AL.
	Examiner Loren C. Edwards	Art Unit 3748

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3, 7 and 8 is/are rejected.
- 7) Claim(s) 4-6 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 5/9/06, 9/17/07.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on 5/9/06 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner has considered the information disclosure statement.
3. The information disclosure statement (IDS) submitted on 9/17/07 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner has considered the information disclosure statement.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 7, and 8 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Kotzan et al. (U.S. 5,113,651). Kotzan discloses a control apparatus (Fig. 1, No. 18) for an internal combustion engine (Fig. 1, No. 10) provided with a secondary air supply apparatus (Fig. 1, Nos. 26, 30, and 34) that supplies secondary air to a portion upstream of an exhaust gas control device in an exhaust system, the apparatus comprising: a detector that detects failure in the secondary air supply

apparatus (Claim 2); and a controller that limits an amount of air introduced into the internal combustion engine to a predetermined amount when failure in the secondary air supply apparatus is detected by the detector (Claim 2, Lines 34-42).

6. With regards to claim 2, Kotzan discloses the control apparatus of claim 1, as described above, and further wherein the controller reduces the amount of the air introduced into the internal combustion engine to the predetermined amount in a stepwise manner (Claim 2, Lines 34-42).

7. With regards to claim 3, Kotzan discloses the control apparatus of claim 1, as described above, and further wherein the controller reduces the amount of the air introduced into the internal combustion engine to the predetermined amount at a predetermined change rate (Claim 2, Lines 34-42).

8. With regards to claim 7, Kotzan discloses the control apparatus of claim 1, as described above, and further wherein the controller controls an opening amount of a throttle valve (Fig. 1, No. 10 – Intake throttle valve is depicted on the top of the engine) provided in an intake pipe for the internal combustion engine so that the amount of the air introduced into the internal combustion engine is limited to the predetermined amount (Claim 2, Lines 34-42).

9. With regards to claim 8, Kotzan discloses the control apparatus of claim 1, as described above, which contains all of the essential claimed elements of the instant claim. The method to so perform is inherently included.

***Allowable Subject Matter***

10. Claims 4-6 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Loren C. Edwards whose telephone number is (571) 272-2756. The examiner can normally be reached on M-TH 5:30-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Denion can be reached on (571) 272-4859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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